

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 738 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SULTANALI MOHSINALI VOHRA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 738 of 1992
PARTY-IN-PERSON for Petitioner No. 1
MR BY MANKAD, AGP for Respondent No. 1
NOTICE SERVED for Respondents No. 2,4
MR HM BHAGAT for Respondent No. 3
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CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 20/02/2002

ORAL JUDGEMENT

1. Sultanali Mohsinali Vohra, petitioner
party-in-person has filed this petition and prayed that

as per provisions of Saurashtra Felling of Trees Act, 1951 (hereinafter referred to as 'the Act') particularly communication dated 15th June, 1976 and also communication dated 23rd March, 1976 and 24th February, 1976 only the Panchayat i.e. the Talati-cum-Mantri has right within the area of respective jurisdiction and has right to give permission for cutting of trees. It is also prayed that the Gram Panchayat has also power to give permission and the communication dated 7th January, 1992, issued by the Taluka Development Officer where it has been stated that Panchayat has no power to give permission may please be quashed and set aside in this behalf.

2. Sultanali Mohsinali Vohra, party-in-person has personally argued the matter. He has also read the petition in this behalf. However, after going through the entire petition, no facts in the petition has been set out to substantiate his contention in this behalf. He has also stated that from some of the agriculturists the persons are purchasing trees for number of years however from which area and which trees purchased has not been set out in this behalf.

2.1 He has also relied upon the provisions of Saurashtra Felling of Trees (Infliction of Punishment) Rules, 1961 (hereinafter referred to as 'the Rules') in this behalf. He has also relied upon the notification dated 25th July, 1968, issued by the Government which provides that all trees (other than teak, Blackwood, Sandalwood Khair and Mahuda) in any occupied land except in forest areas. The notification further provides that in exercise of the powers conferred by clause (a) of sub-sec.(1) of Section 3 of Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951 and notification dated 15th October 1960 and 26th December, 1960 the Government empowers for the purposes of the said clause that all talatis and village panchayats within the area of their respective jurisdiction excluding forest areas.

3. I have also heard Mr.B.Y.Mankad, learned AGP in this behalf. He has also invited my attention to the affidavit filed by one Harshad Kanaiyalal Upadhyaya, Taluka Development Officer, Sankheda, Dist.Vadodara in this behalf.

4. In the affidavit it was also contended that due to lack of particulars given by the petitioner, it will be very difficult to the deponent of the affidavit to file the affidavit. However, deponent of the affidavit, crave leave to rely upon the provisions of the act and

the rules and also the provisions of Sec.51 of the Act which gives power to Panchayat in certain contingencies. The deponent of the affidavit has also relied upon the definition of tree given under the act and also Sec.2(c) of the said Act which provides different kinds of trees in this behalf.

4.1 He has also relied upon the notification dated 14th May, 1980 and another notification dated 4th June, 1973, and Rule 3 (5-A) of the Rules in this behalf. He has also stated that petitioner has not applied in writing. It has been stated that, as regards permission for cutting trees, the Taluka Development Officer has no power to grant such permission. Whether the permission to be given to the Panchayat or not the same has not been stated in this behalf. He has also relied upon the circular dated 23rd March, 1976. It has been admitted that on 7.2.92 the petitioner did file an application however the respondent no.2 has replied and stated that as regards permission for cutting trees Panchayat has no power to grant the same. The petitioner has no right or interest for claiming the relief which has been stated in the petition in this behalf. It has been alleged that petitioner himself carrying on business of cutting trees illegally without prior permission of the Government in this behalf. The petitioner has also taken law in his hand and the petitioner is in habit of making several applications before this Court. The authority has acted as per the provisions of the act and the rules. In fact the petitioner has carrying such activities of cutting trees without taking permission of the Panchayat and, therefore, he is not entitled to any relief in this behalf. The authority has also relied upon circular dated 15th July, 1976. The communication dated 3.12.1986 from Mamlatdar to Collector and also the various incidents in which the petitioner was involved in cutting of trees. The Collector's letter dated 24th December, 1986, to Police Commissioner, Vadodara and also letter dated 17th August, 1988, from Deputy Secretary, Home Department in this behalf.

5. I have considered the submissions made by the party-in-person and also the contention of the learned AGP in this behalf. I have also considered the affidavit-in-reply filed in this behalf, but due to lack of details given in the affidavit, it will not be possible for this Court to give any relief in favour of the petitioner.

6. In view of the same, the petition is rejected. The petitioner will pay Rs.2,000/- (Rupees Two Thousand

only) by way of cost to the Legal Aid Committee in this behalf. Rule is discharged.

(K.M. Mehta, J.)

syed/